

# Calendar No. 756

82D CONGRESS  
1st Session

SENATE

REPORT  
No. 801

## PETER THERKELSEN KIRWAN AND ERNEST O'GORMAN KIRWAN

SEPTEMBER 24 (legislative day, SEPTEMBER 19), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany S. 1464]

The Committee on the Judiciary, to which was referred the bill (S. 1464) for the relief of Peter Therkelsen Kirwan and Ernest O'Gorman Kirwan having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of the bill is to enable Peter Therkelsen Kirwan and Ernest O'Gorman Kirwan, who were born in India of a British father and an American mother, to enjoy the immigration status of individuals who were born in Great Britain.

#### STATEMENT OF FACTS

The beneficiaries of the bill are brothers who were born in India on March 21, 1928, and June 7, 1929 respectively. Their mother is a native-born United States citizen and their father is a British subject who was in military service in India at the time of their birth. They were originally admitted to the United States for permanent residence in June 1943. A short while later they departed to Canada to resume their education there, following which they returned to London, England. Ernest Kirwan has received his degree in medicine and Peter Kirwan has graduated from Cambridge College.

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A letter dated August 7, 1951, to the chairman of the Senate Committee on the Judiciary from the Deputy Attorney General with reference to the case reads as follows:

AUGUST 7, 1951.

Hon. PAT McCARRAN,  
*Chairman, Committee on the Judiciary,  
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 1464) for the relief of Peter Therkelsen Kirwan and Ernest O'Gorman Kirwan, aliens.

The bill would provide that Peter Therkelsen Kirwan and Ernest O'Gorman Kirwan, British subjects who were born in India of an American mother and British father, shall be deemed to have been born in Great Britain.

The files of the Immigration and Naturalization Service of this Department disclose that the aliens are brothers and were born in Calcutta, India, on March 21, 1948, and June 7, 1929, respectively. They first entered the United States at the port of New York, on July 1, 1940, with their mother, who was admitted as a citizen of the United States. They, however, were found inadmissible to the United States as immigrants not in possession of immigration visas, but were paroled into the country pending their appeal. Subsequently their appeal was sustained and they were admitted on September 11, 1940, as visitors for 6 months under section 3 (2) of the Immigration Act of 1924. The aliens were granted numerous extensions of their temporary stays, the last of which expired on March 31, 1943. On June 9, 1943, they departed from the United States and proceeded to Victoria, British Columbia, Canada, where they obtained quota immigration visas. They were admitted to the United States for permanent residence in possession of these immigration visas at Seattle, Wash., on June 21, 1943.

According to Mrs. Alfred J. O'Brien, her sister, Mary Therkelsen Kirwan, the mother of the aliens, was born in Portland, Oreg., on October 17, 1889 or 1890, and was married in New York in about 1927 to W. Ernest O'Gorman Kirwan, an eye specialist, who was born in Dublin, Ireland. Mrs. O'Brien stated that in the fall of 1943, the aliens attended a school in Victoria, British Columbia, that the father of the aliens entered the United States early in 1944, and remained in this country about 6 months, after which the family, including the two sons, left the United States in the summer of 1944, from New York, destined to London, England. She further stated that Ernest Kirwan graduated in June 1950 from Cambridge College where he studied medicine, and that he is now doing clinical work in a hospital in London. It appears that Peter Kirwan attended Oxford College, and was expected to graduate in June of this year from Cambridge College, where he has been studying business administration. Mr. Cachot Therkelsen, uncle of the aliens, stated that Dr. Kirwan was a lieutenant colonel in the British Armed Forces during the last war, that he was also a consultant to the British Government on the India and Burma fronts, and that he is now an eye specialist, and a consultant on tropical diseases of the eye. Mr. Therkelsen also stated that his sister, Mrs. Kirwan, has an income in the United States from property which she owns. Apparently the beneficiaries of the bill reside in England with their parents.

Section 12 (a) of the Immigration Act of 1924 specifically provides that, for the purposes of that act, nationality shall be determined by the country of birth. The aliens are, therefore, chargeable to the quota of India, the country of their birth, which is oversubscribed and an immigration visa is not readily obtainable. While the aliens were admitted for permanent residence in the United States in June of 1943, they departed in the fall of 1943, and proceeded to Victoria, British Columbia, to attend school. The record fails to present any facts which would justify the enactment of special legislation exempting them from the usual requirements of the immigration laws.

Accordingly the Department of Justice is unable to recommend enactment of the bill.

Yours sincerely,

PEYTON FORD,  
*Deputy Attorney General.*

Senator Wayne Morse, the author of the bill, has submitted the following information in connection with the case:

UNITED STATES SENATE,  
COMMITTEE ON ARMED SERVICES,  
June 22, 1951.

Hon. PAT McCARRAN,  
*Chairman, Senate Committee on Judiciary,*  
*Washington, D. C.*

DEAR SENATOR: In reply to your letter of May 26 I am now submitting the following documents in support of my bill S. 1464:

1. Photostatic copy of birth certificate of Peter Therkelsen Kirwan.
2. Photostatic copy of birth certificate of Ernest O'Gorman Kirwan.
3. Original and copy of letter signed by Mary Therkelsen Kirwan, the mother, with information concerning Peter Therkelsen Kirwan.
4. Original and copy of letter signed by Mary Therkelsen Kirwan, the mother, with information concerning Ernest O'Gorman Kirwan.

Peter Kirwan has just been accepted by the Harvard Graduate School and has passed his entrance examinations at Cambridge with honors. The term starts September 19, 1951, so I sincerely hope we can get action on this bill very soon.

If there is any further information that you may need I shall be glad to try to obtain it for you.

Sincerely yours,

WAYNE MORSE.

LONDON, June 18, 1951.

Hon. PAT McCARRAN,  
*Chairman, Senate Committee on the Judiciary,*  
*Washington, D. C.*

DEAR SIR: I herewith submit the information you requested about my son Peter Therkelsen Kirwan in connection with his application for immigration into the United States of America.

The circumstances surrounding his entry into the United States are the following:

1. Born March 21, 1928, in Calcutta, India, of American mother and British father on military service in India. He wishes to enter the United States of America on completion of his studies at Cambridge University. He hopes to attend the Harvard School of Business Administration and later to take up residence in the United States of America.

2. His present activities are: He has just finished his course of studies at Trinity College, Cambridge. He has completed 2 years military training with a lieutenant's commission in the Royal Artillery.

3. He is a student and is therefore dependent upon his parents for support.

4. He is not engaged in any activities, political or otherwise, injurious to the American public interest.

5. He has not been convicted of any offense under any Federal or State law.

I am the mother of Peter Therkelsen Kirwan, and the statements I have made concerning my son are true and correct to the best of my knowledge.

Yours respectfully,

MARY THERKELSEN KIRWAN.

LONDON, June 18, 1951.

Hon. PAT McCARRAN,  
*Chairman, Senate Committee on the Judiciary,*  
*Washington 25, D. C.*

DEAR SIR: I herewith submit the information you requested about my son Ernest O'Gorman Kirwan, in connection with his application for immigration into the United States of America.

The circumstances surrounding his entry into the United States are the following:

1. Born June 7, 1929, in Calcutta, India, of American mother and British father when on military service in India. He wishes to enter the United States of America on completion of his studies, and take up residence there.

2. His present activities are: He is a student of Cambridge University and Middlesex Hospital, London.

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3. He is a medical student and is therefore financially dependent upon his parents.

4. He is not engaged in any activities, political or otherwise, injurious to the American public interest.

5. He has not been convicted of any offense under any Federal or State law. I am the mother of Ernest O'Gorman Kirwan, and the statements I have made concerning my son are true and correct to the best of my knowledge.

Yours respectfully,

MARY THERKELSEN KIRWAN.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 1464) should be enacted:

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